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SEP 28 2005

OFFICE OF PETITIONS

: DECISION ON PETITION

: UNDER 37 CFR 1.137(b)

In re Application of
Brandon W. BLACKBURN
Application No.: 09/360,582
Attorney Docket No.: MIT.8312

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2005 to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. §704.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final office action mailed May 3, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned at midnight on August 3, 2001.

The petition does not satisfy the conditions for revival pursuant to the provisions of 37 CFR 1.137(b). It satisfies condition (2) the petition fee. In this application, no terminal disclaimer is required. See 37 CFR 1.137(d).

With respect to condition (1) it is unclear if the paper submitted under the title "Response Accompanying A Request For Continued Examination Under 37 C.F.R. 1.114" is the RCE submission or if applicant submitted a separate RCE paper with the instant filing. In addition, there appears to be no request to charge for the RCE.

With respect to condition (3) under 37 CFR 1.137(b), applicant has not provided the proper statement. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional."

Consequently, the petition is deemed to not to satisfy conditions (1) and (3) under 37 CFR 1.137(b).

Since no terminal disclaimer is required, the terminal disclaimer fee of \$65.00 will be refunded to Deposit Account No. 19-0079.

Telephone inquiries concerning this decision should be directed to Rafael Bacares at (571) 272-3276 or in his absence, the undersigned at (571) 272-3218.

A handwritten signature in cursive script, reading "Frances Hicks".

Frances Hicks
Petitions Examiner
Office of Petitions